

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Sampson	Team: Squad #9	CCRB Case #: 201802536	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/14/2018 6:51 PM	Location of Incident: 2424 Hylan Boulevard (In front of Shop Rite)	Precinct: 122	18 Mo. SOL 9/14/2019	EO SOL 9/14/2019	
Date/Time CV Reported Mon, 04/02/2018 11:06 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/02/2018 11:06 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Vargas	05734	935904	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Lam	25229	963106	122 PCT
2. POM Kevin Padilla	16177	942311	122 PCT
3. POM William Lennon	07806	955053	122 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Vargas	Discourtesy: Police Officer Jose Vargas spoke discourteously to § 87(2)(b)	

### Case Summary

On April 2, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On March 14, 2018, at approximately 6:51 p.m., § 87(2)(b) was involved in a physical fight in the vicinity of 2424 Hylan Boulevard in Staten Island. Officers, including PO Jose Vargas, of the 122<sup>nd</sup> Precinct responded to the location. While discussing if § 87(2)(b) should press charges against the other individuals involved, PO Vargas allegedly told § 87(2)(b) that he was a “a grown ass man” that could make his own “fucking decisions” and that § 87(2)(b) was “showing [his] ass” out in the street (**Allegation A: Discourtesy**; § 87(2)(g)). § 87(2)(b)'s wife, § 87(2)(b) was on scene and recorded a portion of this incident. However, the footage was filmed prior to the officers' arrival and therefore did not capture the alleged discourteous remarks.

### Findings and Recommendations

#### **Allegation A – Discourtesy: Police Officer Jose Vargas spoke discourteously to § 87(2)(b)**

It is undisputed that § 87(2)(b) requested to consult with his wife to discuss if he should press charges against the other individuals on scene and that PO Vargas told § 87(2)(b) that he was an adult and needed to make his own decisions. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) were both interviewed at the CCRB on May 4, 2018 [BRs 01 and 02, respectively]. § 87(2)(b) stated that after he was handcuffed and placed in the back of a police car, PO Vargas approached and asked him if he wanted to press charges. § 87(2)(b) responded that he was not sure and asked to speak to § 87(2)(b). PO Vargas then walked away from the vehicle. When PO Vargas returned, he said, “You’re a grown ass man, you can make your own fucking decisions. You’re showing your ass out here in the streets. You’re trying to be a man, what are you going to do?” § 87(2)(b) responded that he would press charges and PO Vargas walked away.

§ 87(2)(b) stated that she did observe officers speak to § 87(2)(b) after he was placed in the back of the patrol vehicle. However, she could not overhear what was being said as she was standing approximately 10 feet away. § 87(2)(b) did not hear any officer use profanity towards § 87(2)(b) on scene.

PO Vargas and PO Kevin Padilla, also of the 122<sup>nd</sup> Precinct, were interviewed at the CCRB on May 1, 2018 [BRs 03 and 04, respectively]. PO Vargas acknowledged that he told § 87(2)(b) that he was an adult and needed to make his own decisions but denied making the statements alleged or using any profanity towards § 87(2)(b). PO Padilla did not recall if § 87(2)(b) mentioned wanting to speak with his wife while he was in the vehicle and did not recall if observed PO Vargas speaking to § 87(2)(b) once he was placed in the vehicle. PO Padilla denied hearing any officer use profanity toward § 87(2)(b) at any point.

§ 87(2)(b) stated that aside from PO Vargas, only one other officer was in the vicinity at the time of the alleged discourtesies. § 87(2)(b) stated this officer was seated in the police car at the time and could only describe him as a male in uniform. The investigation determined that PO Padilla and his partner, PO William Lennon, also of the 122<sup>nd</sup> Precinct, transported § 87(2)(b) to the stationhouse. Given that § 87(2)(b) knew PO Padilla by name, the investigation determined that the officer seated in the vehicle at the time of this incident was PO Lennon. PO Lennon was interviewed at the CCRB on May 29, 2018 [BR 08]. He stated that he did not recall

PO Vargas approaching the vehicle once § 87(2)(b) was placed inside and did not hear PO Vargas make the alleged comments or hear him use any profanity towards any civilian on scene.

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 05].
  - § 87(2)(b)
- PO Vargas has been a member of service for 13 years and has been a subject in two previous CCRB complaints and two allegations, neither of which was substantiated. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of May 18, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim in regard to this complaint [BR 06].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: \_\_\_\_9\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date